

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
THE CHEMITHON CORPORATION,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 254

FINDINGS OF FACT,
CONCLUSION AND ORDER

This matter, the appeal of a \$250.00 civil penalty for an alleged smoke emission violation of respondent's Regulation 1, came before all members of the Pollution Control Hearings Board (William A. Gissberg, presiding) in the conference room of respondent's Seattle offices at 10:00 a.m. May 11, 1973. The matter was heard seriatim with a related but not consolidated matter, PCHB No. 280.

Appellant appeared through J. Richard Aramburu, Attorney at Law, and respondent through its counsel, Keith D. McGoffin. Evan Aaron, Seattle court reporter, recorded the proceedings.

1 Witnesses were sworn and testified. Exhibits were admitted, ten
2 by respondent, four by appellant. Counsel filed post-hearing briefs.

3 From testimony heard, exhibits examined and briefs considered,
4 the Pollution Control Hearings Board makes these

5 FINDINGS OF FACT

6 I.

7 Appellant manufactures granulated detergent in a sulfonator plant
8 at 5430 West Marginal Way S.W., Seattle, King County. To control and
9 limit the escape of pollutants, appellant devised and operates an
10 induced steam scrubber system through which emissions pass before
11 being discharged by a stack into the ambient air. Frequent plant tests
12 of emissions entering the stack show that when the standard operating
13 procedures are functioning normally, stack emissions contain water
14 vapor, particulants, sulfur dioxide and sulfur trioxide in amounts
15 not likely to exceed standards set in respondent's Regulation 1.

16 II.

17 At about 2:00 p.m. on November 29, 1973, an inspector on respondent's
18 staff, qualified and certified by the state for stack plume evaluation,
19 observed emissions from appellant's sulfonator plant stack for a period
20 of ten minutes. He saw steam being emitted for about 10 feet from the
21 stack with a 30 to 50-foot trail of blue residual smoke which he
22 recorded as varying in shade from Number 2 1/4 to Number 3 on the
23 Ringelmann Scale. On the basis of these observations, he issued to
24 appellant Notice of Violation Number 6348, citing Section 9.03 of
25 respondent's Regulation 1. Subsequently, and in connection therewith,
26 Notice of Civil Penalty Number 572, in the maximum allowable amount of

27 FINDINGS OF FACT,
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1 \$250.00, was issued against appellant by respondent. That penalty is
2 the subject of this appeal.

3 III.

4 Section 9.03 of respondent's Regulation 1 makes it unlawful to
5 cause or allow the emission for more than three minutes in any one hour
6 period of an air contaminant which is darker in shade than Number 2 on
7 the Ringelmann Scale.

8 IV.

9 On cold and humid days, steam emanating from a stack tends to
10 remain visible for longer distances than it does during warm and dry
11 weather. At 1:55 p.m. on November 29, 1972, at Seattle-Tacoma Airport,
12 located some 10 miles southwest of appellant's plant, National Weather
13 Service records show that the air temperature was 47 degrees and the
14 relative humidity was 71 per cent.

15 V.

16 Standard operating procedures were functioning normally at
17 appellant's plant the afternoon of November 29, 1972.

18 From these findings, the Pollution Control Hearings Board comes
19 to this

20 CONCLUSION

21 For these reasons, doubt exists as to whether there was more than
22 a technical violation of Section 9.03 of respondent's Regulation 1 from
23 appellant's sulfonator plant stack the afternoon of November 29, 1972:

- 24 (a) the cited violation was based, in part, on a Ringelmann
25 Scale reading which was only fractional in excess of the
26 allowable emission;

27 FINDINGS OF FACT,

CONCLUSION AND ORDER

(b) weather conditions tended to accentuate a lingering plume
of steam, and

(c) the plant at the time was operating normally.

The preponderance of evidence makes it difficult for the Board to
support the alleged violation and particularly a violation for which
the maximum allowable penalty is demanded.

Therefore, the Pollution Control Hearings Board issues this

ORDER

The appeal is sustained and Notice of Civil Penalty Number 572,
in the amount of \$250.00, is cancelled.

DONE at Lacey, Washington this 3 day of July, 1973.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward
WALT WOODWARD, Chairman

W. A. Gissberg
W. A. GISSBERG, Member

James T. Sheehy
JAMES T. SHEEHY, Member

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